

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARCO ANTONIO SANCHEZ, individually and
on behalf of all other similarly situated persons,

Index: 16-cv-4472 (JMF)

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 01/18/2017

Plaintiffs,

JYP FOODS INC., d/b/a KRISTALBELLi, and JOON
KIM,

Defendants,

X

**[PROPOSED] ORDER ON PLAINTIFF'S MOTION TO CONDITIONALLY CERTIFY
A FAIR LABOR STANDARDS ACT COLLECTIVE ACTION AND AUTHORIZE
NOTICE TO BE ISSUED TO ALL PERSONS SIMILARLY SITUATED**

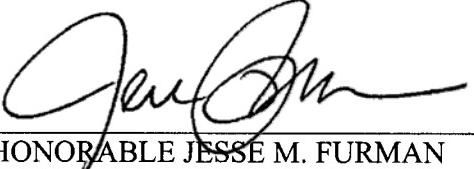
THE COURT HEREBY ORDERS that Plaintiff's Motion is GRANTED, and
FURTHER ORDERS that:

1. The collective action notice entitled "NOTICE OF LAWSUIT WITH OPPORTUNITY TO JOIN" and the "CONSENT TO BECOME A PARTY PLAINTIFF," attached hereto as Exhibit "A" and Exhibit "B," respectively, are hereby approved for mailing to potential plaintiffs;
2. The collective class of potential plaintiffs in this matter shall consist of all current and former bussers, servers, bartenders, and runners employed by JYP FOODS INC., d/b/a KRISTALBELLi at any time on or after June 14, 2013 to 1/18/2017. Insert date of this Order; XXXXXX
3. Defendants shall provide to Plaintiff, within fourteen (14) days following the date of this Order, the names, addresses, phone numbers, and email addresses of all potential plaintiffs who worked in the above positions from on or after June 14, 2013 to 1/18/2017. XXXXXX XXXXXX This information shall be supplied in paper form, and also digitally in one of the following formats: Microsoft Excel; or Microsoft Word;
4. If a notice is returned as undeliverable, Defendants shall provide the Social Security number of that individual to Plaintiff's counsel. Any Social Security numbers so produced will be maintained by Plaintiff's counsel alone and used for the sole purpose of performing a skip-trace to identify a new mailing address for notices returned as undeliverable. All copies of Social Security numbers, including any electronic file or other document containing the numbers, will be destroyed once the skip-trace analysis is completed. Within fourteen days following the close of the opt-in period, Plaintiff's counsel will certify in writing to the Court that the terms of this Order have been adhered to and that the destruction of the data is complete.
5. Plaintiff's counsel shall mail the notice of collective action to all potential plaintiffs no later than fourteen (14) days following Defendants' disclosure of the contact information for the

potential plaintiffs;

6. Defendants shall post the “NOTICE OF LAWSUIT WITH OPPORTUNITY TO JOIN,” attached hereto as Exhibit “A” and the “CONSENT TO BECOME A PARTY PLAINTIFF” form, attached hereto Exhibit “B” in a conspicuous non-public location at their place of business; and
7. Plaintiff is permitted to mail the “DEADLINE REMINDER LETTER” thirty days before the close of the opt-in period in the form attached hereto as Exhibit “C”;
8. Plaintiff is permitted to translate (i) the “NOTICE OF LAWSUIT WITH OPPORTUNITY TO JOIN,” attached hereto as Exhibit “A”, (ii) the “CONSENT TO BECOME A PARTY PLAINTIFF” form, attached hereto as Exhibit “B”, and (iii) the “DEADLINE REMINDER LETTER”, attached hereto as Exhibit “C”, into Spanish and Korean within 10 days following the date of this order and include the translated documents with the mailings described herein.
9. Plaintiff is to send The proposed Spanish and Korean translations to Defendants within 5 days prior to mailing.
10. All potential plaintiffs must opt-in no later than 60 days after the date of the mailing of the notice, by returning the executed form entitled “CONSENT TO BECOME A PARTY PLAINTIFF” to the Court before that date.

DATED this 18th day of January, 2017



HONORABLE JESSE M. FURMAN
UNITED STATES DISTRICT JUDGE



EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

MARCO ANTONIO SANCHEZ, individually and
on behalf of all other similarly situated persons,

Index: 16-cv-4472 (JMF)

Plaintiffs,

JYP FOODS INC., d/b/a KRISTALBELLi, and JOON
KIM,

Defendants,

-----X

NOTICE OF LAWSUIT WITH OPPORTUNITY TO JOIN

FROM: **NAYDENSKIY LAW GROUP, P.C.**
1517 Voorhies Ave, 2nd Fl., Brooklyn, New York, 11235
Telephone: (718) 808-2224
[Email:Naydenskiylaw@gmail.com](mailto:Naydenskiylaw@gmail.com)

TO: All current and former bussers, servers, bartenders, and runners employed by
JYP FOODS INC., d/b/a KRISTALBELLi at any time on or after June 14, 2013
to _____ [Insert date of Order granting 216(b)].

RE: Opportunity to join a lawsuit asserting violations of the Fair Labor Standards Act
and New York Labor Laws against JYP FOODS INC., d/b/a KRISTALBELLi
and JOON KIM (collectively, "Defendants") for their alleged failure to pay
minimum wage for all hours worked, overtime premium compensation for all
hours worked over forty (40) in a given workweek, as well as wage
statement claims under New York State Law.

I. INTRODUCTION

The purpose of this notice is to inform you of the existence of a collective action lawsuit in which you potentially are "similarly situated" to the named plaintiff, to advise you of how your rights may be affected by this lawsuit and to instruct you on the procedure for participating in this lawsuit. The lawsuit at issue was filed on June 14, 2016 against defendants in the United States District Court for the Southern District of New York. The plaintiff alleges that the defendants violated the Federal Fair Labor Standards Act and the New York Labor Laws by improperly failing to pay minimum wage and overtime premiums for all hours worked in excess of forty (40) per week. The lawsuit also seeks damages for wage statement violations pursuant to the New York Labor Laws, and seeks back pay and liquidated damages, as well as costs and attorneys' fees. Defendants deny the plaintiff's allegations and deny that they are liable to the plaintiff for any of the back pay, damages, costs or attorneys' fees sought.

II. YOUR RIGHT TO PARTICIPATE IN THE LITIGATION

You have been identified as an individual who may have a claim against JYP FOODS INC., d/b/a KRISTALBELLi similar to the claim made by Plaintiff in this case. You have the right to assert that claim against JYP FOODS INC., d/b/a KRISTALBELLi in the present lawsuit. You also have the right to initiate your own lawsuit, obtain counsel of you choosing, or you may choose not to sue JYP FOODS INC., d/b/a KRISTALBELLi at all.

You may join this lawsuit (that is, you may "opt-in") by mailing the Opt-In & Consent to Join Form that is attached to this Notice to the Court at the following address:

Clerk of the Court
United States District Court Southern District of New York
500 Pearl Street
New York, NY, 10007

The Opt-In & Consent to Join Form form must be filed with the Federal Court on or before _____ [60 days from date of mailing]. If you do not return the Opt-In & Consent to Join Form before this deadline, you will not be able to participate in this lawsuit.

If you return the Opt-In & Consent to Join Form attached to this Notice to the Clerk of the Court, you are agreeing to: 1) designate the named Plaintiff as your agent to make decisions on your behalf concerning this litigation; 2) the method and manner of conducting this litigation; 3) the entering of an agreement with the named Plaintiff's counsel concerning attorneys' fees and costs; 4) and all other matters pertaining to this lawsuit. These decisions and agreements made and entered into by the named Plaintiff will be binding on you if you join this lawsuit.

III. EFFECT OF JOINING THIS ACTION

If you choose to join in this case, you will be bound by the Judgment, whether it is favorable or unfavorable. The attorneys for the collective action plaintiffs are being paid on a contingency fee basis, which means that if there is no recovery, there will be no attorneys' fees. If there is a recovery, the attorneys for the collective action will receive a part of any settlement obtained or money judgment entered in favor of all members of the collective action. If you sign and return the Consent to Become a Party Plaintiff form attached to this Notice, you are agreeing to designate the collective action representatives as your agents to make decisions on your behalf concerning the litigation, the method and manner of conducting this litigation, the entering of an agreement with plaintiffs' counsel concerning attorneys' fees and costs, and all other matters pertaining to this lawsuit. These decisions and agreements made and entered into by the representative plaintiff will be binding on you if you join this lawsuit. However, the Court has retained jurisdiction to determine the reasonableness of any contingency agreement entered into by the plaintiff with counsel, and to determine the adequacy of the plaintiff's counsel.

IV. NO RETALIATION PERMITTED

Federal law prohibits JYP FOODS INC., d/b/a KRISTALBELLI and JOON KIM from taking any retaliatory action against any person, including current employees, who joins or assists in the prosecution of this case. Defendants are prohibited by law from retaliating against you for exercising your rights under the Fair Labor Standards Act or New York Labor Laws.

V. IMMIGRATION STATUS

You have the right to participate in this action even if you are an undocumented immigrant. You do not need to have a record of the hours you worked in order to participate in this lawsuit.

VI. FURTHER INFORMATION

Plaintiff's Complaint and Defendants' Answer filed in this lawsuit are available for inspection at the office of the Clerk of the Court or by contacting Plaintiff's counsel at 718-808-2224 who will forward a copy to you. If you have any questions about this notice, the lawsuit, or the procedure for joining the lawsuit, you may contact Plaintiff's or Defendants' attorneys at:

Naydenskiy Law Group P.C.
Attorney for Plaintiff
1517 Voorhies Avenue, 2nd Fl.,
Brooklyn, New York 11235
(718) 808-2224
naydenskiylaw@gmail.com

The Seltzer Law Group, P.C.
Attorney for Defendants
11 Broadway, Suite 615
New York, NY 10004
(646) 863-1909
sseltzer@slg-ny.com

THIS NOTICE AND ITS CONTENTS HAVE BEEN AUTHORIZED BY THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, THE HONORABLE JESSE M. FURMAN, UNITED STATES DISTRICT JUDGE. THE COURT HAS TAKEN NO POSITION IN THIS CASE REGARDING THE MERITS OF THE PLAINTIFFS' CLAIMS OR OF THE DEFENDANTS' DEFENSES.

DO NOT TELEPHONE THE COURT REGARDING THIS NOTICE.

DATED: _____, 2016

EXHIBIT B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

MARCO ANTONIO SANCHEZ, individually and
on behalf of all other similarly situated persons,

Index: 16-cv-4472 (JMF)

Plaintiffs,

JYP FOODS INC., d/b/a KRISTALBELLi, and JOON
KIM,

Defendants,

-----X

CONSENT TO BECOME A PARTY PLAINTIFF

By my signature below, I hereby authorize the filing and prosecution of the above styled Fair Labor Standards Act action in my name and on my behalf by the representative Marco Antonio Sanchez as my agent to make decisions on my behalf concerning the litigation, the method and manner of conducting this litigation and all other matters pertaining to this lawsuit. I understand that I will be represented by Naydenskiy Law Group, P.C. without prepayment of costs or attorneys' fees. I understand that if plaintiffs are successful, costs expended by attorneys on my behalf will be deducted from my settlement or judgment first. I understand that my attorneys may petition the court for an award of fees and costs to be paid by defendant on my behalf. I understand that the amount of the fees will be approximately 1/3 of my total settlement or judgment, or such other amount as approved by the Court.

Printed Name	Signature	Date
Street Address	Email Address	Telephone
City, State, Zip code	Approximate Dates of Employment	

PLEASE RETURN THIS FORM FOR FILING WITH THE COURT BY 160 days from date of mailing TO:

Clerk of the Court
United States District Court Southern District of New York
500 Pearl Street
New York, NY, 10007

EXHIBIT C

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

MARCO ANTONIO SANCHEZ, individually and
on behalf of all other similarly situated persons,

Index: 16-cv-4472 (JMF)

Plaintiffs,

JYP FOODS INC., d/b/a KRISTALBELLi, and JOON
KIM,

Defendants,

-----X

REMINDER - DEADLINE TO JOIN LAWSUIT IS [insert close of opt-in period date]

This letter is to remind you that the deadline to opt-in to the wage and hour lawsuit currently pending against JYP FOODS INC., d/b/a KRISTALBELLi and JOON KIM is _____ [insert close of opt-in period date]. If you want to participate in the lawsuit, as detailed in the prior "Notice of Lawsuit with Opportunity to Join" letter that you should have received dated _____, please complete the attached "Consent to Become A Party Plaintiff" form and return to:

Clerk of the Court
United States District Court Southern District of New York
500 Pearl Street
New York, NY, 10007

If you have any questions about this notice, the lawsuit, or the procedure for joining the lawsuit, you may contact Plaintiff's or Defendants' attorneys at:

Naydenskiy Law Group P.C.

Attorney for Plaintiff
1517 Voorhies Avenue, 2nd Fl.,
Brooklyn, New York 11235
(718) 808-2224
naydenskiylaw@gmail.com

The Seltzer Law Group, P.C.

Attorney for Defendants
11 Broadway, Suite 615
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sseltzer@slg-ny.com

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Questions? Please call Naydenskiy Law Group P.C. at (718) 808-2224